

REMARKS

The present Response is intended to be fully responsive to the objections and rejections raised in the Office Action, and is believed to place the application in condition for allowance. Further, the Applicants do not acquiesce to any portion of the Office Action not particularly addressed. Favorable reconsideration and allowance of the application is respectfully requested.

Turning now to the substance of the main paragraphs 1-20 of the present Office Action, the Examiner noted that:

- 1) As the Application is eligible for continued examination, the finality of the previous Office Action is withdrawn pursuant to 37 C.F.R. 1.114, and Applicants' submission filed on 6/24/2008 has been entered;
- 2) the specification is objected to;
- 3) claims 9, 21, 25, and 37-48 are objected to on the basis of alleged informalities; and
- 4) claims 1, 4-11, 13-32, 34, 35, and 37-48 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,046,396 to Chan (*Chan*) in view of U.S. Patent No. 7,280,118 to Senn *et al.* (*Senn*).

By this response, a portion of the Specification (specifically, the ABSTRACT section thereof) is amended, and each of claims 9, 21, 25, and 37-48 is amended. No new claims are added. Upon the entry of the above Amendment to the Claims, the pending claims of the application will remain claims 1, 4-11, 13-32, 34-35, and 37-48. Of the pending claims in the application, each of claims 1, 18, and 29 is presented in independent form. In view of the above amendments and the following discussion, the Applicants submit that the Examiner's concerns underlying the above-mentioned objections to the Abstract section of the Specification, and to claims 9, 21, 25, and 37-48, have been fully addressed, and that each of the claims presently pending in the application is non-obvious under 35 U.S.C. §103, and is thus in condition for allowance. The Applicants respectfully request that the Examiner reconsider and withdraw all such objections and rejections, and issue a prompt notice of allowance with respect to all pending claims.

I. OBJECTIONS TO THE SPECIFICATION

The Examiner reminded the Applicants of the proper language and format for an abstract to the disclosure. More particularly, the Examiner objected to the usage of the word 'wherein' in lines 2, 4, and 7, stating that such usage should be avoided. In response, the Applicants respectfully direct the Examiner's attention to the above Amendments to the Abstract, by which further changes to the twice-revised Abstract are

implemented corresponding to the objections lodged by the Examiner. In such circumstances, the Applicants submit that the Examiner's concerns giving rise to the present objection have been addressed. In turn, withdrawal of the present objection to the Specification is respectfully requested.

II. OBJECTIONS TO THE CLAIMS

The Examiner has objected to each of claims 9, 21, 25, and 37-48 because of various informalities identified in the Office Action. In response, the Applicants respectfully direct the Examiner's attention to the above Amendments to the Claims section, in which changes to each of claims 9, 21, 25, and 37-48 are implemented that correspond to the objections lodged by the Examiner, and that more precisely define the presently claimed subject matter. Support for the various amendments to claims 9, 21, 25, and 37-48 is found in the application, as filed. As such, no new matter has been added. In such circumstances, the Applicants submit that the Examiner's concerns giving rise to the current objections to the claims have been addressed. In turn, withdrawal of the current objections to the claims is respectfully requested.

III. REJECTION OF CLAIMS 1, 4-11, 13-32, 34, 35, and 37-48 UNDER 35 U.S.C. §103(a) (Chan/Senn)

The Examiner rejected each of claims 1, 4-11, 13-32, 34, 35, and 37-48 as being allegedly obvious under 35 U.S.C. §103(a) over *Chan* in view of *Senn*. The rejection is respectfully traversed.

In Response, the Applicants note that the prior art status of *Senn* is dependent on the provisions of 35 USC § 102(e), which provides as follows:

A person shall be entitled to a patent unless

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

as modified by the provisions of 35 USC § 103(c), which provides as follows (emphasis added):

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title,

shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The Senn '118 patent and the present application share one common inventor in Mr. Thomas Senn, but otherwise involve different inventors (namely: additional inventors Messrs. H. R. Van Aken, B. Zimmermann and P. Ehbets in the former, and additional inventor Mr. F. Lamy in the latter). **Based on the results of a review of the applicable documentation for these two matters, including specifically the relevant assignment documentation and associated PTO assignment records, the undersigned attorney hereby declares that the inventors were subject to an obligation of assignment to the same person/entity (to wit: GretagMacBeth AG) at the time the invention of the present application was made. See MPEP § 706.02(I)(1).**

Accordingly, and pursuant to the above-recited provisions of 35 USC § 103(c), the undersigned attorney respectfully submits that *Senn* is not available for use as prior art against the present application. All of the present obviousness rejections are based on combinations including *Senn*. In light of the foregoing, the Applicants respectfully request that the Examiner reconsider and withdraw all of the present obviousness rejections of claims 1, 4-11, 13-32, 34, 35, and 37-48.

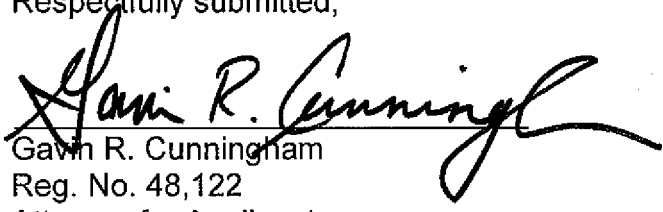
CONCLUSION

In view of the foregoing, the Applicants submit that the Examiner's concerns leading to the present objections to the specification and the claims of the application have been fully and completely addressed, and each of the claims presently pending in the application is directed to patentable subject matter and is patentable over all of the prior art currently of record. Accordingly, swift issuance of a notice of allowance with respect to all pending claims is earnestly solicited.

If, however, the Office believes that any unresolved issues still exist or if, in the opinion of the Office, a telephone conference would expedite passing the present application to issue, the Office is invited to call the undersigned attorney directly at 203-399-5928 or the office of the undersigned attorney at 203-399-5900 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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